

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-019-00136A

Parcel No. 190632475001

Gary Papenheim,

Appellant,

vs.

Chickasaw County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 26, 2019. Gary Papenheim was self-represented. Attorney Jamie Cox represented the Chickasaw County Board of Review.

Gary Papenheim owns an agriculturally classified property located at 1795 190th Street, New Hampton. Its January 1, 2019, assessment was set at \$287,200. (Ex. B).

Papenheim petitioned the Board of Review contending the assessment of the residence was for more than the value authorized by law. Iowa Code § 441.37(1)(a)(2) (2019). The Board of Review applied a 5% obsolescence to the dwelling and reduced the total assessment to \$281,100 allocated as \$170,800 in land value and \$102,900 in agricultural dwelling value and \$7,400 in improvement value. (Ex. A).

Papenheim then appealed to PAAB asserting his property is inequitably assessed. § 441.37(1)(a)(1).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a two-story home built in 1936. It has 2016 square feet of gross living area, an unfinished basement, a patio, a three-season porch, a deck, and a two-car attached garage. The improvements are listed in above-normal condition with a 4+05 Grade (average quality). The site is 118.00 acres. (Ex. A).

Papenheim challenges only the assessed value of his dwelling and contends it is inequitable when compared to the assessed dwelling values of other properties in his area.

Papenheim testified his father built the home in 1936 and he grew up there. The dwelling was constructed on an existing stone foundation from the 1880-90s. He explained the basement has always been wet and can only be used for storage and utilities.

Papenheim's argument is explained in his brief to PAAB. He described the property as having insects and being poorly sealed, and the steps to the upstairs are narrow and not built to today's standards. He further asserts the blown-in insulation is inadequate. Additionally, the house has settling issues and is not square. The subject is serviced by a well, as rural water is not available, and the septic is old with no updates. He believes the subject's hot water heat causes difficulty in cooling the house. Further, he asserts the chimney needs to be repaired. Given all of these issues, he disputes the above-normal rating of the dwelling and believes it should be normal. However, he admitted that he does not know the standards used by the assessor for determining a condition rating. An interior and exterior inspection by the Assessor's Office occurred on April 23, 2019. (Ex. A). Papenheim did not raise an error claim as part of his appeal to PAAB, and we therefore forego any further discussion of error.

Papenheim's second argument is based on the age of the subject. He believes no similar properties built prior to 1973, like the subject, have dwelling assessed values of greater than \$100,000. Because the subject's assessed dwelling value is greater than \$100,000, he asserts this proves inequity in his assessment.

Papenheim compared the assessed dwelling value of twelve properties that are located close to his property. (Exs. 1-13). He provided further explanation of the six properties that he considered most similar in age. He noted the properties at 1849 190th Street and 1727 200th Street bracket his property in age but are only assessed for \$60,500 and \$49,500, respectively. (Exs. 6 & 10). We note 1849 190th Street is the largest property in the record with 2280 square feet, but it is in below-normal condition; comparatively, 1727 200th Street is the smallest property in the record and also in below-normal condition.

All of the properties Papenheim selected appear to be rural acreages, however some are classified agricultural and others are classified residential. As previously noted in comparing 1849 190th Street and 1727 200th Street, the dwellings possess many points of difference, varying in year built from 1880 to 1989; gross living areas from

1144 to 2280 square feet; condition from below-normal to above-normal; and grade 5+10 to 3-10. Because they possess so many disparate points of difference, it is difficult to draw any meaningful comparison between them and the subject property.

Only one property sold in 2018 as an arm's-length transaction: 2918 270th Street, Fredreicksburg sold for \$85,000. (Ex. 13). This property was built in 1895, has 1618 total square feet of living area, and is situated on a 2-acre parcel. (Ex. 13). The other 2018 transfer was of 1807 200th Street, New Hampton. (Ex. 11). This transfer was between related parties for no consideration. (Ex. 11).

The Board of Review asserts Papenheim failed to prove the Assessor used a different valuation method for the subject and likewise failed to prove the assessment is inequitable compared to other like properties. It further asserts the appeal of only a portion of the assessed value cannot succeed. (Post Hearing Brief).

Analysis & Conclusions of Law

Papenheim contends the subject property is inequitably assessed as provided under Iowa Code section 441.37(1)(a)(1).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

Papenheim provided twelve properties he considered comparable in support of his claim.¹ He focused on differences in assessed dwelling values between the subject and these comparables. However, these properties and the subject have various points of difference (age, size, condition, etc.) that would contribute to the variance in assessed dwelling values. Papenheim has not identified, and we cannot find, any

¹ The subject is classified agricultural. Several of the comparables were classified residential. Typically, it is best to compare properties with the same assessment classification due to differences in valuation requirements. For instance, Iowa law specifies agricultural land and buildings are not assessed at their market value. § 441.21(1)(e); Iowa Admin. Code R. 701-71.3(2). The differing classifications make an equity comparison difficult; particularly when Iowa case law suggests that an equity comparison should focus on total values. *White v. Bd. of Review of Polk Cnty.*, 244 N.W.2d 765, 769 (Iowa 1976); *Deere Mfg. Co. v. Zeiner*, 78 N.W.2d 527, 531 (Iowa 1956).

inconsistency in the assessment methodology applied to the subject and these comparables.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2018 sales) and assessed (2019) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* It is insufficient to simply compare the subject property's assessed value to the assessments of other properties.

Only two of Papenheim's comparable properties transferred in 2018; but one of these transactions was between related parties "for no consideration". This sale would be abnormal under Iowa Code section 441.21(1)(b). This leaves only one 2018 sale for comparison, but more than one comparable is required. *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 (Iowa Ct. App. Aug. 7, 2019).

Ultimately, the *Maxwell* analysis cannot be completed as an assessment/sale price ratio also needs to be developed for the subject property. The subject property did not recently sell, nor did Papenheim offer evidence of its January 1, 2019 market value. A ratio for similar properties, as well as the actual value of the subject property, is required in order to determine if the subject property is assessed at a higher proportion of its actual value.

Lastly, although Papenheim identified other factors he believes affects his property's value such as the heat, insulation, stairs, and settlement, he offered no evidence showing what impact these issues had on the subject's value. Moreover, those issues are more pertinent to an over assessment claim under section 441.37(1)(a)(2).

Viewing the record as a whole, we find Papenheim failed to prove the subject property's assessed value is inequitable as compared with the assessments of other like properties.

Order

PAAB HEREBY AFFIRMS the Chickasaw County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Karen Oberman, Board Member



Elizabeth Goodman, Board Member

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